FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Second Appeal No. 548/2005

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : Smt. V. A. Naik, J.
DATED : March 16, 2007.

Heard Shri Gupta for the appellant, and Shri Borkar for the respondent.

The original plaintiff has challenged the two concurrent judgments in the instant second appeal. The appellant/plaintiff had filed a suit for permanent injunction restraining the defendant from interfering with the peaceful possession of the plaintiff over the suit property. According to the plaintiff, the property was bequeathed to the plaintiff by Will executed by the father of the defendant, by name Ramaji Rahile, on 1/4/1987.

The defendant denied the claim of the plaintiff and further denied that the father of the defendant had executed a Will in favour of the plaintiff on 1/4/1987. The defendant also denied the possession of the plaintiff over the suit property.

Both the Courts held that the plaintiff had failed to prove the validity of the Will dated

1/4/1987 and had further held that the document dated 1/4/1987 was a suspicious one. The Courts recorded a finding of fact that the plaintiff was not in possession of the suit property on the date of the institution of the suit and, therefore, could not have sought for relief of permanent injunction against the defendant on the basis of his possession.

Both the Courts have recorded concurrent findings of facts which do not give rise to any substantial question of law. Second appeal is, therefore, dismissed with no order as to costs.

JUDGE

RMP